



News and Information

Alabama Board of Licensure for Professional Engineers & Land Surveyors

May 1999

The Board's Bulletin

New Administrative Code Now in Effect

This past year has seen the culmination of many years of effort to update the Licensure Law and the Administrative Code. Work began on updating the Code after the Licensure Law was updated in 1997. An entire review of the Code was done ensuring it was in compliance with the new law and accurately reflected the policies of the Board. The Board would like to thank all those who provided comments during the review process.

The changes to the Code went into effect October 28, 1998.

The changes to the Licensure Law and the Administrative Code have been discussed in previous issues of this newsletter. Copies of the Licensure Law were included in the mailing of last year's newsletter. The Roster of Licensees, to be published in April 1999, will include both the Licensure Law and the Administrative Code. Also, both publications are available in pamphlet form upon request and will be available on the Board's web page, when it becomes active.

Hello and Goodbye

The newest Board member is Mr. Veston W. Bush, Jr. Mr. Bush is a professional land surveyor in private practice. Mr. Bush is the first professional land surveyor who has not also been licensed as a professional engineer to be appointed to the Board. He is active in the Alabama Society of Professional Land Surveyors and is a past president of that organization.

Mr. Bush replaced Mr. Billy Smith whose term as a board member expired on April 22, 1998. A special thank you to Mr. Smith for the guidance and wisdom he provided the Board for the past 10 years.

Last year also saw the retirement of Ms. Mary Lee Edgar from the Board staff. Ms. Edgar has been a valued employee of the Board for the past 32 years. Ms. Karen McGuire replaced Ms. Edgar and comes to us from the Department of Insurance.

Inside this Issue

Right-of-Ways	2
Certificate of Authorizations	2
Disciplinary Action	3
Topographic Surveys	4
Year in Review	5
Exam Corner	6
Competitive Bidding	7
Covenants and Plats	7
Seals on Proposals	7
Board Staff	8

Board Meeting Dates

April 30, 1999
June 11, 1999
August 27, 1999
November 5, 1999

Seated left to right

Thomas F. Talbot, Chair, J. Carroll Hastings

Standing left to right

Lynn C. Doyle, Vice-Chair, James R. Montgomery, Secretary and Veston W. Bush, Jr.

.....

**Who Can Perform
Right-of-Ways**

In recent months there have been discussions among professional engineers and professional land surveyors as to who is allowed to survey right-of-ways. The discussions have centered on the responsibilities of each professional concerning establishing a right-of-way for the purpose of layout and construction and the survey required for making a tie and conveyance of the property to the public land system.

The Licensure Law provides for the locating, relocating, establishing, reestablishing, layout or retracing any road, right-of-way, easement or alignment relative to the centerline of the project to be done by either professional engineers or professional land surveyors. This work includes establishing a right-of-way by measuring left and right of the centerline of the project, placing non-permanent markers to establish the boundaries, and the setting of right-of-way monuments related to the road centerline as long as the monuments are not tied to property boundaries. A professional land surveyor is required when performing surveys to set permanent markers along the right-of-way that are tied to the public land system.

**Certificate of Authorization
Requirement**

Alabama Law requires all corporations, firms, and partnerships offering engineering or land surveying services to the public to have a current certificate of authorization. (Section 34-11-9(a).) There is no differentiation between in-state and out-of-state entities. This Law includes any business using a name which may include a given name coupled with "Engineering or Engineers" or "Surveying or Surveyors". You may, however, practice in your given name as an individual with the title "PE" or "PLS" without being required to have a certificate of authorization. For example: Neither John Doe, PE, nor Jane Smith, PLS, need a certificate of authorization. John Doe Engineers, Billy Jones & Associates, or John Doe Surveying require a certificate of authorization.

Please note that certificates of authorization now lapse on January 31 of each year, and it is unlawful for a business to offer or practice engineering or land surveying services after this date unless its certificate of authorization has been renewed. Failure to have a current certificate of authorization is a violation of the licensure law and will be enforced by the Board.

MTS Revised

ASPLS revised their Minimum Technical Standards on February 17, 1999. They will be sending all licensed land surveyors a copy of the new standards.

Disciplinary Action

The Board office received 43 complaints in the period from October 1, 1997 through September 30, 1998 and ten complaints from prior years were carried forward. Of these 53 complaints, the Board had 11 formal disciplinary actions concerning licensees and one formal disciplinary action concerning a non-licensee. Of the 41 remaining complaints, 29 were handled administratively by the Board and 12 were carried forward into the next year. Administrative actions included letters of warning and cease and desist letters. As a result of Board actions, two certificates of authorization were filed, three firms changed their names to comply with the law, and one licensee repaid his client.

Formal Disciplinary Actions

Aiding and abetting non-licensee and violations of Minimum Technical Standards

Frank B. Garrett, Jr., PE/LS 9500, Montgomery, AL, agreed to a consent order which was accepted by the Board on November 14, 1997, for aiding and abetting a non-licensee in unauthorized surveying, and violating Minimum Technical Standards on a survey. He agreed to a fine of \$2,000, and completion of a MTS course within six months.

Not in responsible charge and incompetency

Cecil D. Creel, PE 6268, Athens, AL, agreed to a consent order which was accepted by the Board on November 14, 1997, for not being in responsible charge of a draftsman regarding the design of a building, and the plans having numerous errors, omissions, and code violations. He agreed to a fine of \$4,000, stayed suspension, and two years probation.

John V. Hodgins, PE 10019, Pelham, AL, agreed to a consent order which was accepted by the Board on May 15, 1998, for not being in responsible charge of a draftsman regarding the design of a building, and the plans having numerous errors, omissions, and code violations. He agreed to a fine of \$500, stayed suspension, and two years probation.

Bobby G. Bailey, PE/LS 12502, Anniston, AL, agreed to a consent order which was accepted by the Board on May 15, 1998, for not being in responsible charge of a draftsman regarding the design of a building, and the plans having numerous errors, omissions, and code violations. He agreed to a fine of \$4,000, stayed suspension, and two years probation.

Incompetency

John E. Paden, PE 13183, Cullman, AL, agreed to a consent order which was accepted by the Board on January 9, 1998, for completing design plans for a building which had numerous errors, omissions, and code violations. He agreed to a fine of \$2,000, stayed suspension and two years probation.

M. Don Williams, III, PE 11886, Mobile, AL, agreed to a consent order which was accepted by the Board on September 11, 1998, for completing design plans for a building which had numerous errors, omissions, and code violations. He agreed to a fine of \$2,000, stayed suspension, and two years probation.

Violations of Minimum Technical Standards for Land Surveying

J. R. Bedingfield, PLS 9788, Trinity, AL, agreed to a consent order which was accepted by the Board on January 9, 1998, for violating Minimum Technical Standards on a survey. He agreed to a fine of \$2,000, stayed suspension, two year probation, and completion of a MTS course within six months.

E. M. Sparkman, PLS 9687, Sheffield, AL, agreed to a consent order which was accepted by the Board on September 12, 1997, for violating Minimum Technical Standards on two surveys. He agreed to a fine of \$3,000, stayed suspension, two years probation, completion of a MTS course within six months, send copies of first ten surveys quarterly to the Board during his probation, and pay for any reviews of his surveys by a technical advisor. Mr. Sparkman violated his probation due to further MTS violations on subsequent surveys. On March 13, 1998, the Board accepted a consent order at a disciplinary hearing whereby Mr. Sparkman agreed to a two year suspension (90 day actual suspension), two years probation, send copies of first five surveys quarterly to the Board during his probation, and pay for any reviews of his surveys by a technical advisor.

Richard C. Borden, PE/LS 13402, Gulf Shores, AL, agreed to a consent order which was accepted by the Board on September 11, 1998, for violating Minimum Technical Standards on two surveys. He agreed to a fine of \$750, repay the client \$175, stayed suspension, two years probation, and completion of a MTS course within six months.

Disciplinary Action continued on page 4

Standards for Topographic Surveys

The newly revised Administrative Code for Professional Engineers and Land Surveyors contains a new section describing professional functions that may be performed by either professional engineers or professional land surveyors. Two of the items mentioned as common to both include topographic surveys and cartographic surveys. The question recently asked is "What are the standards that apply to these functions?"

In order to answer the questions concerning standards, the following is quoted from the Administrative Code: "The engineer or land surveyor shall perform his or her work in accordance with approved standards of practice." (330-X-14-.05 (g).) Although the well know National and Local codes are then listed, the standards specifically applicable to mapping surveys are not defined.

The Board is currently investigating references to other applicable standards for mapping and has become aware of several that may apply. These include but are not limited to the Alabama Society of Professional Land Surveyors' Minimum Technical Standards for Land Surveying; United States National Map Accuracy Standards (NMAS);

Specifications for Aerial Surveys and Mapping by Photogrammetric Methods for Highways (RGO); Accuracy Standards for Large-Scale Maps (ASPRS), ASCE Engineering Map Accuracy Standards, and custom standards for a specific client needs. Some of these standards are relatively old and yet appear to be applicable and used by the mapping professions.

It is obvious that standards do apply to these professions but technology has radically changed many mapping processes. Continued investigation is needed to identify and determine relevant standards.

Other states are also involved in regulating the mapping professional as is evidenced by a growing number of states adding to their jurisdictions the licensing and regulation of the mapping surveying profession.

The Board is involved in this process and invites interested organizations and individuals to participate with us in this study of applicable standards. In the meantime, the Board encourages all in these professions to adhere to existing standards and to assure that the work is performed by qualified professional engineers and/or land surveyors.



Disciplinary Action

continued from page 3

Unauthorized use of city property

J. Shannon Dickinson, Jr., PE 17297, Huntsville, AL, agreed to a consent order which was accepted by the Board on November 14, 1997, for the unauthorized use of city property for private business. He agreed to a fine of \$1,000, stayed suspension, and two years probation.

Inaccurate percolation tests

Marshall W. Corlew, PE 11308, Meridianville, AL, agreed to a consent order which was accepted by the Board on July 10, 1998, for performing percola-

tion tests which had errors, omissions, and violated State Health Department rules. He agreed to a \$500 fine.

No Certificate of Authorization

Ralph A. Hargrove, Hargrove & Associates, Inc., Mobile, AL, agreed to a consent order which was accepted by the Board on September 1, 1998, for the firm offering engineering services to a client without having a certificate of authorization. The principal engineer agreed to a civil penalty of \$500, and to cease and desist practicing as a firm until a CA was obtained.

Year in Review

**** Biennial Renewal** – The Board continues with its efforts to implement biennial renewals as soon as possible. The implementation may be as early as this fall's renewals for 2000. There will be no change in the number of hours of continuing professional competency required for renewal the first year of implementation.

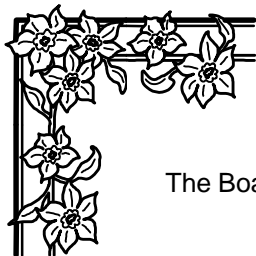
**** Comity Resident Renewals** – The requirements for continuing professional competency (CPC) in Alabama will be deemed satisfied when a non-resident licensee certifies to residing in, licensed in, and having met the mandatory CPC requirements of any jurisdiction whose requirements meet those outlined in the NCEES national model.

**** Design of Building by Single Engineer** – The Board of Licensure for Professional Engineers and Land Surveyors and the Board of Registration of Architects have jointly published a Handbook for Building Officials entitled "Guidelines Concerning the Design of Structures by Architects and Engineers". This publication requires a form to be completed and evaluated by the respective Board when a single engineer or architect seals all the drawings for the building project. Copies of the handbook have been provided to the building officials and copies will soon be sent by the Board to all holders of engineering certificates of authorization. If you would like a copy, contact the Board office.

**** Agreement with the Board of Licensure for Professional Geologists** – A task force was established to discuss the overlap of the professions of engineering and geology in an attempt to determine if there was a delineation between the two practices specifically in the area of submissions to the Alabama Department of Environmental Management. The task force determined that geologists' and engineers' responsibilities and areas of practice were adequately covered in existing documents which establish the criteria which an individual must meet before he or she is registered or licensed to practice, and that a specific listing of tasks for each practice would be inappropriate.

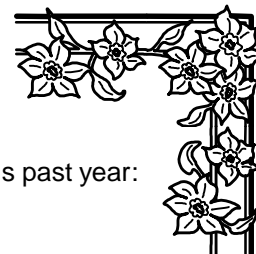
**** Department of Health's Rules for Onsite Sewage Disposal** – The Board has received a draft of the Department of Health's proposed Rules for Onsite Sewage Disposal. There are many changes proposed in the draft and the Board is currently reviewing those changes. Copies of the draft were sent to the major engineering and land surveying societies. If you have any comments on the proposed rules, please provide them to the Board staff.

**** Roster of Licensees** – The Board will be publishing the 1999 Roster of Licensees in April. If you have not already requested one and would like a copy, please notify the Board office. If you have moved or changed companies and you have not provided us with the new information, please submit the change prior to March 31.



In Memory Of

The Board has received notice of the deaths of the following licensees during this past year:



Professional Engineer

Alfred K. Allen	670
Leonard B. Barnes, Jr.	1344
Steve L. Pappas	1874
Thomas J. Harrison	1980
James J. Sollie	2005
William A. Dodd, Jr.	2139
C. F. Von-Herrmann, Jr.	2252
James F. Turner	2854
Fred B. Powell	3342
Allison M. Levy	3393
Charles G. Burnum	3471
James B. Johnson, Jr.	3508
Donald E. Freeman	3667
Jim H. Seay	3936
James C. Key	4017
Douglas R. Cook	4573
Thomas D. Edwards	4721
Richard T. Kimberl	4837
James T. Ammons	4964
W. D. Painter	5594
James Lee Booth	5635

Robert K. Ryland	5649
David Bunkin	5680
Donald M. Cox	5769
*Henry A. Miller	5957
Thomas A. Simpson	5973
E. S. Bingham, Jr.	6335
Byrne W. Stewart	7121
C. Downing Sweat Jr.	7207
Thomas D. Woods	7600
Granville L. Kipps	7668
William J. Sommers	7695
George P. Whittle	8074
Leon C. Minor	8566
Benjamin B. Stokes, III	8709
Jerry L. Poston	8795
Gerald L. Cornish	9387
Lloyd E. Stiffler	9652
Phillip A. Loretan	11722
Rudolf Gabbe	11118
Peter K. Wallek	11244
Richard G. Brown	13075
Albert F. Hane	13850
Carl V. Anderson	13985

Lawrence J. Kutz	17672
Hugh David Dillehay	19412
Harvey L. Bennett	19820
Gino N. Cosimini	20292
Wesley E. Shoe	20553
Westel M. Conrad	20752
William W. Walker, Jr.	21159
Ellis B. Sokolove	22659

Professional Land Surveyor

Paul G. Stough	4086
Joe R. Holman	9424

Professional Engineer & Land Surveyor

J. E. O'Toole	927
Donald R. Hogg, Sr.	2251

Engineer Intern

John D. Bearrentine	ET 11416
---------------------	----------

*Incorrectly identified as Marcus A. Miller in the March 1998 Newsbulletin

Exam Corner

Land Surveying Examinations – A professional activities and knowledge study by NCEES was completed for land surveying last year. Starting with the October 1999 exams, the Fundamentals of Land Surveying (FLS) and the Principles and Practice of Land Surveying (PLS) examinations will be changed in specifications. The FLS examination will be based on academic knowledge and will contain 170 multiple-choice questions. The PLS examination will focus on the practical applications of surveying and will contain 100 multiple-choice questions.

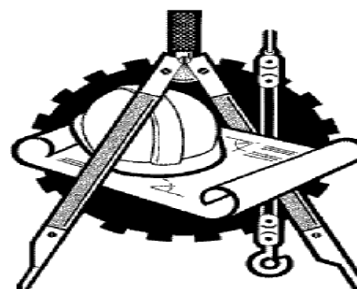
Principles and Practice of Engineering – NCEES has announced a change in the format of the following PE exams: **Agricultural, Environmental, Fire Protection, Industrial, and Petroleum**. Effective with the October 1999 administration, these exams will be in an **all objectively-scored, multiple choice format**. This change means the morning session will be the same format as the current afternoon session. Efforts are continuing on the **Ship Design** exam with the initial offering of this exam tentatively being October 1999.

Land Surveying III Examination – The Board has begun offering the Alabama Land Surveying Standards, History, and Law Examination (LSIII) twice a year at the Board office in addition to the two offerings that are given on the same dates as the PLS exams. See below for the specific dates.

1999 Exam and Filing Dates

Examination	Exam Date	Filing Deadline
Fundamentals of Engineering	Apr 24 Oct 30	Past Sept 1
Princs & Practice of Engineering	Apr 23 Oct 29	Past Aug 2
Fundamentals of Land Surveying	Apr 24 Oct 30	Past Aug 2
Princs & Practice of Land Surveying	Apr 23 Oct 29	Past Aug 2
Alabama Stand., History & Law	Apr 23 Aug 18 Oct 29	Past Aug 2 Aug 2

Computerized Examinations – Studies are ongoing to determine the feasibility of converting the national exams to a computerized format. Issues include the availability of exam locations, cost factors involved in the conversion, and the frequency of exam offerings. A preliminary report is to be given at the NCEES Annual meeting in August.



	October 1997		April 1998	
	Alabama	National	Alabama	National
FE Exams				
All Candidates				
Number Taking	342	16,978	493	22,932
% Passing	65%	64%	63%	69%
ABET Graduates				
Number Taking	314	13,180	300	18,576
% Passing	67%	71%	65%	74%
PE Exams				
All Candidates				
Number Taking	220	13,102	198	12,556
% Passing	50%	46%	35%	36%
LS Exams				
Fundamentals of LS				
Number Taking	27	1,240	27	1,396
% Passing	52%	53%	41%	52%
Principles and Practice of LS				
Number Taking	22	706	20	882
% Passing	68%	52%	60%	67%
AL Stand., History & Law				
Number Taking	17		15	
% Passing	94%		80%	

Competitive Bidding Professional Services and Fees

Question: My office has been asked to bid on a contract that includes engineering or land surveying services. Can I legally provide a bid?

Answer: No. The Code of Ethics contained in the Administrative Code (Section 330-X-14.05(f)) requires that a licensee or firm refrain from participating in procurement practices which do not first determine the qualifications of the individual or firm to perform the services prior to entering into fee negotiations. In other words, the selection process must be qualification based and cannot be a competitive bidding process.

Scopes of work which are a part of the planning and evaluation process of a project and/or fees for performing the work should not be provided until an individual or firm is selected to provide the services. The individual or firm having first been selected on qualifications for the project may negotiate a contract and fees with a client. Should the individual or firm be unable to negotiate a satisfactory contract with the client for any reason, withdrawal from further consideration is required. Another engineer or land surveyor may then be selected on qualifications to negotiate a contract for the work.

Of course the Code of Ethics in no way restricts a client from negotiating with an individual or firm to accomplish a specified project. The code simply prevents licensees from participating in a competitive bidding process.

There may be occasions when a client could ask two or more professionals for a price to do a specific task but the engineering or land surveying professional is unaware that competitive pricing is being sought. For example, assume that a client asks a land surveyor for a price to survey a lot and then tells the land surveyor to await a decision. The client then asks another land surveyor for a price. In cases such as this, the land surveyors involved may not know that other professionals are being contacted.

The important thing to remember is that a professional engineer or land surveyor cannot knowingly participate in a bidding process. The procedures of the qualification based process as defined in the Code of Ethics must be followed. The engineer or land surveyor should make an effort to advise a client that competitive pricing cannot be provided for services to be performed. A statement could be included in the proposal that clearly specifies the proposal may not be used for bidding purposes.

Seals on Proposals

The rules of the Administrative Code 330-X-11-.03(5) require seals on engineering or surveying proposals. Working drawings, reports, or a work product which is intended to communicate work to be performed or for

use in specific proposals and/or becomes a part of defining the scope of a contract for work, must be sealed, signed, and dated by the licensee who prepared these documents or under whose direct control and personal supervision they were prepared.

Covenants and Restrictions

The Board has been informed that some professional land surveyors and some professional engineers may be inadvertently engaging in the unauthorized practice of law. Neither surveyors nor engineers are authorized to draft or assist the owner in drafting protective covenants, restrictive covenants, land use restrictions, homeowners' association charters, or private road maintenance agreements. These documents are drafted and placed in public record as stand-alone text documents. The subject matter is legal, not geometric. It is entirely reasonable that an attorney should be the lead professional drafting these, with input from surveyors or engineers on matters of setbacks and easements when needed.

Plat Dedications

In the process of subdivision creation, there are several law-related operations where a surveyor and attorney work together very closely. Plat dedication is one of these areas. Each plat contains a dedication, an offer of a gift of land from the developer to the public. Once officially accepted, the dedication transfers streets, parks, and other facilities for perpetual ownership and maintenance by the public. Since a dedication appears as a drafted item on the face of the plat, the surveyor is customarily the lead professional in its development, with input from an attorney when needed. The surveyor should verify ownership before drafting the acknowledgment and coordinate with the attorney to ensure that the acknowledgment is consistent with the type of legal entity owning the property. This procedure has been the custom in Alabama for many years.

1998 License Statistics

	In State	Out of State	Total
Renewals			
PE	4,754	5135	9,889
LS	534	228	762
PE/LS	307	61	368
Sub Total	5,595	5,424	11,019
New Licensees			
PE	181	401	582
LS	23	9	32
Sub Total	204	410	614
TOTAL	5,799	5,835	11,633

Board Staff & Points of Contact

Telephone Numbers (334) area code

To receive applications, law or code, roster, board meeting dates, deadlines, status of current license and general information - 242-5568

To receive a duplicate renewal, status of FE (EIT) application or certification, questions on Certificate of Authorizations and need a verification of licensure sent to another state - 242-5089

Need to make an appointment to review a failed exam, to receive a reinstatement form or questions concerning reinstatement - 242-5085

Status of PE & LS application, status of exam fee for PE & LS, questions on experience requirements for PE & LS and change of address (you may also e-mail this information) - 242-5098

To report a violation or make a complaint, questions on continuing education (PDH's) - 242-5049

Questions on a returned check or insufficient funds - 242-5094

Fax - 242-5105

e-mail address: engineer@dsmd.dsmd.state.al.us

Seated left to right

Bonnie Kelly, Regina Dinger, Executive Director and Dave Morgenstern

Standing left to right

Rose Stokes, Donna Page, Denise Hooper and Karen McGuire

Alabama Board of Licensure for
Professional Engineers & Land Surveyors
PO Box 304451
Montgomery, AL 35130-4451

Bulk Rate U.S. Postage Paid Permit No. 109 Montgomery, AL
--